

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

TRAVELERS CASUALTY AND SURETY COMPANY as  
Administrator for RELIANCE INSURANCE COMPANY,

Plaintiff,

vs.

DORMITORY AUTHORITY – STATE OF NEW YORK, TDX  
CONSTRUCTION CORP. and KOHN PEDERSEN FOX  
ASSOCIATES, P.C.,

Defendants.

DORMITORY AUTHORITY OF THE STATE OF NEW  
YORK,

Third-Party Plaintiff,

vs.

TRATAROS CONSTRUCTION, INC.,

Third-Party Defendant.

TRATAROS CONSTRUCTION INC., and TRAVELERS  
CASUALTY AND SURETY COMPANY,

Fourth-Party Plaintiffs,

vs.

CAROLINA CASUALTY INSURANCE COMPANY;  
Et.Al.,

Fourth-Party Defendants.

Case No. 07-CV-6915 (DLC)  
ECF CASE

**AFFIDAVIT OF HOLLIE L. SHARPE  
IN SUPPORT OF OHIO CASUALTY  
INSURANCE COMPANY'S MOTION  
FOR SUMMARY JUDGMENT**

I Hollie L. Sharpe, being of full age and duly sworn hereby deposes  
and says:

1. I am a Technical Claims Consultant with the Ohio Casualty Insurance Company, 9450 Seward Road, Fairfield, Ohio. As such I am responsible for overseeing the management of certain claims for Ohio Casualty Insurance Company.
2. Ohio Casualty Insurance Company issued a certain umbrella liability policy to G.M. Crocetti, Inc., under policy number No. BXO 02 52

69 35 48, for the period from March 31, 2001 to March 31, 2004. Exhibit A.

3. That Ohio Casualty Insurance policy contains a notice provision which requires a person or entity seeking coverage under the policy to notify Ohio Casualty Insurance Company of an "occurrence" or suit "as soon as practicable:

**2. Duties In The Event Of Occurrence, Offense, Claim Or Suit**

**a.** You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

**b.** If a claim is made or "suit" is brought against any insured, you must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

Your must see to it that we receive written notice of the claim or "suit" as soon as practicable.

c. You and any other involved insured must:

(1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit"; ...<sup>1</sup>

4. On or about August 12, 2005, Ohio Casualty through its own investigation into a Fourth Party Complaint filed against Ohio Casualty for insurance coverage from Trattaros Construction, Co., disclosed that G.M. Crocetti, an Ohio insured, had been sued in two lawsuits: R&J Construction Corp. v. Trataros Construction Inc., et al, New York Supreme Court, New York County under Index No. 113225/2003, filed on July 18, 2003, and Travelers Casualty and Surety Co., et. al. v. Dormitory Authority et. al., Docket No. 04 Civ. 5101 filed on November 24, 2004.

5. Upon discovery of these lawsuits, and having received no notice of those claims from the insured, G.M. Crocetti, Ohio Casualty promptly disclaimed coverage to G.M. Crocetti.

6. Ohio Casualty received no claim for coverage from Trataros as an additional insured prior to receipt of the Fourth Party Complaint. Accordingly Ohio Casualty disclaimed coverage to Trataros.

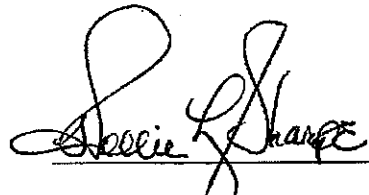
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<sup>1</sup> The policy language differs only slightly between the policies, but is nearly identical in all practical affects.


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M. M. A.

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Hollie L. Sharpe, AIC

Sworn and subscribed before me  
On this 1<sup>st</sup> day of AUGUST, 2008;

  
Notary public



#495393

Nancy A. Schutte  
Notary Public, In and For the State of Ohio  
My Commission Expires: July 17, 2013